

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**JOSE LUIS LUVIANO-LOPEZ,**

CASE NO. 4:23 CV 3

Petitioner,

v.

JUDGE JAMES R. KNEPP II

**WARDEN GARZA,**

**MEMORANDUM OPINION AND  
ORDER**

Respondent.

This matter is before the Court on Magistrate Judge Thomas M. Parker's Report and Recommendation ("R&R") to grant Respondent Warden Garza's Motion to Dismiss (Doc. 6) Petitioner Jose Luis Luviano-Lopez's petition for a writ of habeas corpus under 28 U.S.C. § 2241 (Doc. 1). (Doc. 7). Specifically, Judge Parker recommends the Motion to Dismiss be granted because this court lacks subject matter jurisdiction over the petition following Petitioner's release from federal custody. *Id.* at 2-3.

Under the relevant statute:

Within fourteen days of being served with a copy [of a Magistrate Judge's R&R], any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1); *see also* FED. R. CIV. P. 72(b)(2). The failure to file timely written objections to a Magistrate Judge's R&R constitutes a waiver of *de novo* review by the district court of any issues covered in the R&R. *Thomas v. Arn*, 728 F.2d 813, 814-15 (6th Cir. 1984); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).

In this case, the R&R was issued on August 23, 2023, and it is now September 26, 2023. Petitioner has neither filed objections nor requested an extension of time to file them.<sup>1</sup> Therefore, the Court ADOPTS Judge Parker's R&R (Doc. 7) as the Order of this Court, and DISMISSES Petitioner's Petition (Doc. 1) for lack of jurisdiction as set forth therein.

The Court further finds an appeal from this decision could not be taken in good faith. 28 U.S.C. § 1915(a)(3).

IT IS SO ORDERED.

s/ James R. Knepp II  
UNITED STATES DISTRICT JUDGE

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1. The R&R recommends this Court find the Petition moot because Petitioner was released from federal custody. A review of the Bureau of Prisons Prisoner Locator website confirms Petitioner's release. *See* [https://www.bop.gov/mobile/find\\_inmate/byname.jsp](https://www.bop.gov/mobile/find_inmate/byname.jsp). The R&R was mailed to the address Petitioner provided the Court – Federal Correctional Institution – Elkton in Lisbon, Ohio. Although the Court recognizes that Petitioner likely did not receive mail sent to said institution, *pro se* litigants have the same obligation as an attorney to notify the court of a change of address. *Carey v. King*, 856 F.2d 1439, 1441 (9th Cir. 1988). “[Petitioner] has the duty to inform the court of any address changes,” and it is not incumbent upon this Court or its staff to keep track of Petitioner's current address.” *Thompkins v. Metrish*, 2009 WL 2595604, \*1 n.1 (W.D. Mich.) (quoting *Kelly v. Wal-Mart, Inc.*, 2007 WL 2847068, \*1 (N.D.N.Y.)).